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OFFICE OF PETITIONS

In re Application of
Anthony Vetro, et al.
Application No. 09/854,020
Filed: May 11, 2001
Attorney Docket No. MH-5073

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed May 27, 2005. The petition is filed in response to a decision dismissing petition mailed May 27, 2004.

The petition is GRANTED.

Petitioners request that "(i) the payment of the Issue Fee submitted herewith, be entered, (ii) the active status of the above-reference application be acknowledged, and (iii)) the amendment after allowance be considered."

The application became abandoned for failure to pay the issue fee on or before December 29, 2003. A grantable petition under 37 CFR 1.137(b)¹ must be accompanied by: (1) the required reply,² unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D).

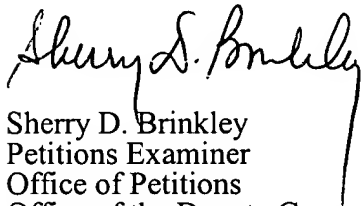
¹ As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

² In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

The petition is found to comply with the requirements of 37 CFR 1.137(b). However, applicant is reminded that no amendment may be made as a matter of right in an application after the mailing of the Notice of Allowance.

The application is being referred to the Technology Center for appropriate action as may be deemed necessary on the amendment filed October 22, 2003.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

A handwritten signature in black ink, appearing to read "Sherry D. Brinkley". The signature is written in a cursive, flowing style. The first name "Sherry" is written in a larger, more prominent script, followed by "D." and "Brinkley". The signature is positioned above the printed name and title.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy